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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,140	02/27/2002	Cory M. Panattoni	002558-067300US	4424

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EXAMINER

YOON, TAE H

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/087,140

Applicant(s)

PANATTONI, CORY M.

Examiner

Tae H Yoon

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hochstrasser et al (US 5,292,665) in view of Alpenfels et al (US 5,753,095) or Lau et al (US 6,110,340).

Rejection is maintained for reason of record and following response.

Applicant's argument based on the role of the sodium thiosulfate as an oxygen scavenger in the instant invention and as staining reducer in Hochstrasser et al has no probative value since the composition is the same. Applicant asserts that air can seep through plastic, however, the air permeable plastic is neither a limitation nor claimed. Also, for example, a plastic mold made of polyethylene terephthalate of Alpenfels et al has little air permeability, and thus argument based on air permeability has no probative value. The advantage of using plastic gel enclosure or mold over glass enclosure or mold and the use of a plastic mold are well known as taught by Alpenfels et al (col. 3, lines 32-44 and col. 4, lines 51-60) and Lau et al (col. 4, lines 38-40), and applicant failed to show otherwise. As pointed out by applicant and the examiner, Alpenfels et al teach the advantage of using plastic gel enclosure or mold over glass enclosure or mold, and thus it is a

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*prima facie* obviousness to one skilled art in the art to use plastic gel enclosure or mold in Hochstrasser et al with teaching of Alpenfels et al and without the instant disclosure.

With respect to Lau et al, the chemical aspect (components) discussed by applicant is already taught by Hochstrasser et al, and thus the use of plastic gel enclosure or mold would be a *prima facie* obviousness and applicant failed to show otherwise.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alpenfels et al (US 5,753,095) in view of Flesher et al (US 4,940,763) or Saunders (US 3,755,280).

Rejection is maintained for reason of record and following response.

With respect to Flesher et al, Flesher et al is not cited to show the usage of polyacrylamide, but to show the art well known aqueous gel polymerization which uses redox catalyst system comprising sodium sulfite. Alpenfels et al also teach aqueous gel polymerization, and thus the use of the redox catalyst system comprising sodium sulfite would be a *prima facie* obviousness and applicant failed to show otherwise.

Saunders teaches sulfites as a component in a catalyst combination for the polymerization of monomeric acrylamide, and thus the use of the redox catalyst system comprising sodium sulfite of Saunders in Alpenfels et al would be a *prima facie* obviousness and applicant failed to show otherwise.

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Claims 1-13 are rejected under 35 U.S.C. 103(a) as obvious over Ogawa (US 4,806,434) in view of Hochstrasser et al (US 5,292,665), Flesher et al (US 4,940,763) or Saunders (US 3,755,280), and further in view of Alpenfels et al (US 5,753,095) or Lau et al (US 6,110,340).

Rejection is maintained for reason of record and following response.

Applicant states that the oxidation inhibitors taught by Ogawa do not interact with oxygen in the same way as sodium sulfite or any of the oxygen scavenger utilized in the invention. However, applicant failed to provide support for such statement, and furthermore, applicant's statement admits that the oxidation inhibitors taught by Ogawa do interact with oxygen regardless of reaction mechanism.

The reasons give above rejections under Hochstrasser et al and Alpenfels et al also support the examiner's position.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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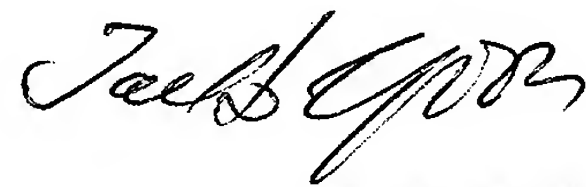
will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (703) 308-2389. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

THY/September 9, 2003



TAE H. YOON  
PRIMARY EXAMINER